

## Federal Emergency Management Agency, DHS

## § 5.50

records or if records located are determined to be exempt from disclosure.

(b) *Computer searches for records.* FEMA will charge the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary apportionable to the search. FEMA may assess charges for time spent searching, even if FEMA fails to locate the records or if records located are determined to be exempt from disclosure.

(c) *Duplication costs.* (1) For copies of documents reproduced on a standard office copying machine in sizes up to 8½x14 inches, the charge will be \$.15 per page.

(2) The fee for reproducing copies of records over 8½x14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through government or commercial sources. If FEMA estimates that the allowable duplication charges are likely to exceed \$25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his/her willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with agency personnel with the objective of reformulating the request to meet his/her needs at a lower cost.

(3) For copies prepared by computer, such as tapes or printouts, FEMA shall charge the actual cost, including operator time, of production of the tape or printout. If FEMA estimates that the allowable duplication charges are likely to exceed \$25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his/her willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with agency personnel with the objective of reformulating the request to meet his/her needs at a lower cost.

(4) For other methods of reproduction or duplication, FEMA shall charge the actual direct costs of producing the document(s). If FEMA estimates that

the allowable duplication charges are likely to exceed \$25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his/her willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with agency personnel with the objective of reformulating the request to meet his/her needs at a lower cost.

(d) Interest may be charged to those requesters who fail to pay fees charged. FEMA may begin assessing interest charges on the amount billed starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C. and will accrue from the date of the billing.

(e) FEMA shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA. FEMA may choose to contract with private sector services to locate, reproduce and disseminate records in response to FOIA requests when that is the most efficient and least costly method. When documents responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs, such as but not limited to the Government Printing Office or the National Technical Information Service, FEMA will inform requesters of the steps necessary to obtain records from those sources.

[52 FR 13678, Apr. 24, 1987, as amended at 52 FR 33410, Sept. 3, 1987]

### § 5.47 Appeals regarding fees.

A requestor whose application for a fee waiver or a fee reduction is denied may appeal that decision to the Deputy Director in the manner prescribed in subpart D.

## Subpart D—Described Records

### § 5.50 General.

(a) Except for records made available pursuant to subpart B, FEMA shall promptly make records available to a requestor pursuant to a request which

**§ 5.51**

reasonably described such records unless FEMA invokes an exemption pursuant to subpart E. Although the burden of reasonable description of the records rests with the requestor, FEMA will assist in identification to the extent practicable. Where requested records may be involved in litigation or other judicial proceedings in which the United States is a party, the procedures set forth under § 5.8 shall be followed.

(b) Upon receipt of a request which does not reasonably describe the records requested, FEMA may contact the requestor to seek a more specific description. The 10-day time limit set forth in § 5.52 will not start until a request reasonably describing the records is received in the office of the appropriate official identified in § 5.51.

**§ 5.51 Submission of requests for described records.**

(a) For records located in the FEMA Headquarters, requests shall be submitted in writing, to the Headquarters FOIA Officer, Federal Emergency Management Agency, Washington, DC 20472. For records located in the FEMA Regional Offices, requests shall be submitted to the appropriate Regional FOIA Officer, at the address listed in § 5.26. Requests should bear the legend “Freedom of Information Request” prominently marked on both the face of the request letter and the envelope. The 10-day time limit for agency determinations set forth in § 5.52 shall not start until a request is received in the office of the appropriate official identified in this paragraph.

(b) The Headquarters FOIA Officer shall respond to questions concerning the proper office to which Freedom of Information requests should be addressed.

**§ 5.52 Review of requests.**

(a) Upon receipt of a request for information, the Headquarters FOIA Officer, or the Regional FOIA Officer for a regional office, will forward the request to the FEMA office which has custody of the record.

(b) Upon any request for records made pursuant to § 5.20, § 5.24, or § 5.51, the office having custody of the records shall determine within 10 workdays,

after receipt of any such request in the office of the appropriate official identified in § 5.51 whether to comply with the request. If the request is approved, the office having custody of the record shall notify the requestor and the Headquarters FOIA Officer whether request originated in Headquarters, Region or field.

[44 FR 50287, Aug. 27, 1979, as amended at 50 FR 40006, Oct. 1, 1985; 53 FR 2740, Feb. 1, 1988]

**§ 5.53 Approval of request.**

When a request is approved, records will be made available promptly in accordance with the terms of the regulation. Copies may be furnished or the records may be inspected and copied as provided in § 5.26.

**§ 5.54 Denial of request of records.**

(a) Each of the following officials within FEMA, any official designated to act for the official, or any official redelegated authority by such officials shall have the authority to make initial denials of requests for disclosure of records in his or her custody, and shall, in accordance with 5 U.S.C. 552(a)(6)(C) be the responsible official for denial of records under this part.

- (1) Deputy Director
- (2) [Reserved]
- (3) Federal Insurance Administrator
- (4) Associate Directors
- (5) United States Fire Administrator
- (6) Chief of Staff
- (7) Office Directors
- (8) General Counsel
- (9) Inspector General
- (10) Comptroller
- (11) Regional Directors

(b) If a request is denied, the appropriate official listed in paragraph (a) of this section shall except as provided in § 5.56 advise the requestor within 10 workdays of receipt of the request by the official specified in § 5.51 and furnish written reasons for the denial. The denial will (1) describe the record or records requested, (2) state the reasons for nondisclosure pursuant to subpart E, (3) state the name and title or position of the official responsible for the denial of such request, and (4) state the requestor's appeal rights.

(c) In the event FEMA cannot locate requested records the appropriate official specified in paragraph (a) of this